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OFFICE OF PETITIONS

In re Patent No.: 7,070,064  
Issue Date: July 4, 2006  
Application No. 10/766,647  
Filed: December 21, 2001  
Inventor: Rabinowitz et al.

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: DECISION ON PETITION  
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This patent has been referred to this office in view of the communication filed July 5, 2006, styled as a petition to resubmit a terminal disclaimer under 37 CFR 1.182, which is being treated as a petition under 37 CFR 1.181(no fee) to clarify the record.

The petition is granted.

Petitioner asserts, and provides convincing documentation in support of its assertion, that while on September 26, 2005, 5 terminal disclaimers captioned for the above identified application, and the requisite fees, were received by the USPTO, the USPTO Private PAIR Record of this file reveals that only 4 of the 5 were internally processed by the USPTO for this application. As such, petitioner requests that concurrently resubmitted, fifth disclaimer (that disclaims over U.S. Patent No. 6,855,310) be made part of the record herein.

In addition to the convincing showing provided by the copy of the itemized postcard receipt for 5 terminal disclaimers date stamped September 26, 2005, inspection of USPTO financial records for this application reveals that the fees for all 5 terminal disclaimers were processed on September 27, 2005, with an indicated mail room date of receipt of September 26, 2005. Apparently, and regretfully, the USPTO has misplaced the originally filed document. Accordingly, the resubmitted copy of the originally filed disclaimer is accepted as supplying a copy of an originally filed, but internally misplaced, document that has been made part of the USPTO record for this file. See MPEP 503 ("A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.")

The USPTO sincerely regrets its processing error and any inconvenience caused petitioner in this matter. As the record is adequately clarified by the petition and this decision, it is not necessary to otherwise correct the as-issued patent.

The \$130 fee proffered with the petition is unnecessary and has been credited to counsel's deposit account as authorized.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3217.

Brian Hearn  
Petitions Examiner